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SERVICE DATE – LATE RELEASE MAY 14, 2019

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36298

NAVAL NUCLEAR PROPULSION PROGRAM, UNITED STATES ARMY MILITARY
SURFACE DEPLOYMENT AND DISTRIBUTION COMMAND, AND FLUOR MARINE
PROPULSION, LLC—PETITION FOR DECLARATORY ORDER

Decided: May 14, 2019

On April 30, 2019, the Naval Nuclear Propulsion Program, the United States Army Military Surface Deployment and Distribution Command, and Fluor Marine Propulsion, LLC (collectively, the Government), filed a petition seeking a declaratory order related to the regulatory status of a rail segment near Ballston Spa, N.Y., and the obligations of Delaware and Hudson Railway Company d/b/a Canadian Pacific (CP) as to shipments on the segment. The Government asks that the Board rule on its petition as quickly as possible in light of the crucial nature of radioactive material shipments expected over the rail segment in late 2019/early 2020.

The Government simultaneously filed a motion for procedural schedule, stating that its petition contains its entire case-in-chief and requesting that the Board direct CP to file its reply by May 20, 2019, and set the due date for the Government's rebuttal as June 3, 2019. To ensure CP can fully respond to the merits of the Government's petition, CP will be directed to file its reply on the merits by May 31, 2019. The Government may file a rebuttal by June 14, 2019.

The parties are also reminded that the Board favors the resolution of disputes through alternative dispute resolution, such as mediation, in lieu of formal Board proceedings, whenever possible. Accordingly, the Board requests that the parties inform the Board by May 31, 2019, if they are interested in participating in Board-sponsored mediation.

It is ordered:

1. The Government's motion for procedural schedule is granted as discussed above.
2. CP's reply on the merits is due by May 31, 2019. The Government may file a rebuttal by June 14, 2019.
3. The parties shall inform the Board whether they are interested in Board-sponsored mediation by May 31, 2019.
4. This decision will be served on CP.
5. This decision is effective on its service date.

By the Board, Allison C. Davis, Acting Director, Office of Proceedings.